

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEBRASKA

JEROME DAVIS,)
)
Plaintiff,) 4:05cv3238
)
vs.) MEMORANDUM AND ORDER
)
LANCASTER COUNTY OF)
CORRECTIONS, et al.,)
)
Defendants.)

This matter is before the court on the following pending motions filed by the plaintiff, Jerome Davis, a state prisoner who was previously in the custody of the Lancaster County Jail when the events at issue in this case took place: (1) filing no. 10, the plaintiff's Motion for Extension of time to pay his initial partial filing fee; (2) filing no. 11, the Motion to Certify Class Action and Appoint Attorney to Represent the Class; (3) filing no. 13, the plaintiff's Motion for Leave to Amend Complaint to add parties; and (4) filing no. 15, the plaintiff's Motion for Additional Summons and 285 Forms. Filing nos. 10, 13 and 15 are granted, and filing no. 11 is denied.

IT IS THEREFORE ORDERED:

1. Filing no. 10, the plaintiff's Motion for Extension of Time to pay his initial filing fee is granted. 28 U.S.C. § 1915(b)(4) states: "In no event shall a prisoner be prohibited from bringing a civil action ... for the reason that the prisoner has no assets and no means by which to pay the initial partial filing fee." In these circumstances, the normal assumption that an initial partial filing fee will be paid at the outset of the case is suspended. Instead, payments of the assessed initial partial fee are to be collected by prison officials and remitted to the court "when funds exist" in the prisoner's trust account. 28 U.S.C. § 1915(b)(1).
2. Filing no. 11, the Motion to Certify Class Action and Appoint Attorney to Represent the Class, is denied.
3. Filing no. 13, the plaintiff's Motion for Leave to Amend Complaint, is granted.
4. Filing no. 15, the plaintiff's Motion for Additional Summons and 285 Forms, is granted. The Clerk of Court shall send the plaintiff the requested forms which the plaintiff shall, as soon as possible, complete and return to the Clerk. Upon receipt of the completed forms, the Clerk will sign each summons, to be forwarded, together with a copy

of the complaint, to the U.S. Marshal for service of process. The Marshal shall serve each summons and complaint without payment of costs or fees. Service may be by certified mail pursuant to Fed. R. Civ. P. 4 and Nebraska law in the discretion of the Marshal.

5. The plaintiff shall keep the court informed of his current address at all times while this case is pending. Failure to do so may result in dismissal.

DATED this 7th day of November, 2005.

BY THE COURT:

s/ F. A. GOSSETT
United States Magistrate Judge